

KEVIN GOLDBERG, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
WEST WINDSOR-PLAINSBORO :
REGIONAL SCHOOL DISTRICT, :
MERCER COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner sought relocation of his child's school bus stop, expressing concern that the location selected by the respondent Board requires a walk of 2/10 of a mile along a street with no sidewalks between petitioner's house and the bus stop, and is therefore unsafe. Respondent Board subsequently filed a motion to dismiss the petition, which was not opposed by the petitioner.

Following a site visit to observe the existing and proposed bus stops, the ALJ determined that: there was nothing unsafe about the existing bus stop; petitioner alleged nothing arbitrary, capricious, or unreasonable is the district's establishment of the existing bus stop, and did not oppose the motion to dismiss. Accordingly, the ALJ granted respondent's motion to dismiss.

Upon a full and independent review, the Commissioner concurred with the ALJ's recommendation that the petition should be dismissed.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

OAL DKT. NO. EDU 10345-08
AGENCY DKT. NO. 338-11/08

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Petitioner, *pro se*, sought the relocation of his child's school bus stop to his driveway. His petition was filed on November 14, 2008, and his motion for emergent relief was filed on November 21, 2008. On November 26, 2008, the date set for the emergent relief hearing in the Office of Administrative Law (OAL), petitioner withdrew his motion for emergent relief. (Initial Decision at 2) On December 10, 2008, respondent filed an answer and motion to dismiss the petition.

The Administrative Law Judge (ALJ) and the parties participated in a site visit on December 19, 2008, to observe the existing and proposed bus stop locations. (Initial Decision at 3) The visit, according to the ALJ, revealed nothing hazardous about the existing bus stop location and, rather, demonstrated that the use of petitioner's driveway as a bus stop would require unsafe bus maneuvers, potentially violative of motor vehicle laws and regulations. (Initial Decision at 3-4)

Correspondence in the record indicates that on December 29, 2008, the ALJ sent the parties copies of the OAL decision in a prior case concerning the location of a school bus stop. According to the ALJ, in a subsequent teleconference – on January 8, 2009 – petitioner then advised her that he would not oppose the motion to dismiss the petition. (Initial Decision at 2) The record was closed, and the ALJ recommended dismissal of the petition.

After review of the record and Initial Decision, and in light of petitioner’s decision not to oppose respondent’s motion to dismiss the petition, the Commissioner concurs with the ALJ’s recommendation that the petition should be dismissed.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: March 31, 2009

Date of Mailing: March 31, 2009

¹ This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.